

AMENDED IN ASSEMBLY APRIL 15, 2013

AMENDED IN ASSEMBLY MARCH 18, 2013

CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

ASSEMBLY BILL

No. 661

Introduced by Assembly Member Beth Gaines
(Coauthors: Assembly Members Conway, Harkey, Logue, Olsen,
Patterson, and Wagner)

(Coauthors: Senators Gaines, Knight, Nielsen, and Walters)

February 21, 2013

An act to amend Sections 13405 and 13406 of the Government Code, relating to state government.

LEGISLATIVE COUNSEL'S DIGEST

AB 661, as amended, Beth Gaines. State government: FISMA.

Existing law, the Financial Integrity and State Manager's Accountability Act of 1983 (FISMA), provides that state agency heads are responsible for the establishment and maintenance of a system or systems of internal accounting and administrative control within their agencies, as specified. Existing law requires that state agency heads covered by FISMA shall, biennially, conduct an internal review and prepare a report on the adequacy of the agency's systems of internal accounting, administrative control, and monitoring practices. Copies of the reports are required to be submitted to the Legislature, the California State Auditor, the Controller, the Treasurer, the Attorney General, the Governor, the director, and to the State Library where the copies are required to be available for public inspection.

This bill would also require the report to be posted on the agency's Internet Web site within 5 days of finalization and would require the

report to be signed by the head of the agency under penalty of perjury. By requiring the head of an agency to sign the report under penalty of perjury, this bill would expand circumstances under which a person may be convicted of a crime and, thereby, would impose a state-mandated local program.

This bill would provide that the head of an agency that fails to submit the report within 30 days of its deadline shall be suspended without pay until the agency comes into compliance with the reporting requirements. This bill would require the framework for conducting an internal review of an agency's systems of internal accounting and administrative control to include *Protocols for auditing and monitoring* of the agency's assets, liabilities, revenues, and expenditures, as well as reconciliation of accounting and budget documents reported to the Department of Finance and the Office of the Controller.

Existing law requires the head of an internal audit staff of a state agency to investigate any allegation that an employee of the agency provided false or misleading information in connection with the review of the agency's systems of internal accounting and administrative control or in connection with the preparation of the biennial report on the systems of internal accounting, administrative control, and monitoring practices. Existing law requires the head of an internal audit staff or designated internal control person to report in writing to the head of the agency or the division if there is reasonable cause to believe that false or misleading information was provided.

This bill would require the report to also be submitted to the Department of Finance and the Joint Legislative Audit Committee.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 13405 of the Government Code is
- 2 amended to read:
- 3 13405. (a) To ensure that the requirements of this chapter are
- 4 fully complied with, the head of each state agency that the director

1 determines is covered by this section shall, on a biennial basis but
2 no later than December 31 of each odd-numbered year, conduct
3 an internal review and prepare a report on the adequacy of the
4 agency's systems of internal accounting, administrative control,
5 and monitoring practices in accordance with the guide prepared
6 by the director pursuant to subdivision (d).

7 (b) The report, including the state agency's response to review
8 recommendations, shall be signed, under penalty of perjury, by
9 the head of the agency and addressed to the agency secretary, or
10 the director for agencies without a secretary. Copies of the reports
11 shall be posted on the agency's Internet Web site within five days
12 of finalization, and submitted to the Legislature, the California
13 State Auditor, the Controller, the Treasurer, the Attorney General,
14 the Governor, the director, and to the State Library where they
15 shall be available for public inspection. If an agency fails to submit
16 the report within 30 days of the report deadline, the head of the
17 agency shall be suspended without pay until the agency comes
18 into compliance with the reporting requirements.

19 (c) The report shall identify any material inadequacy or material
20 weakness in an agency's systems of internal accounting and
21 administrative control that prevents the head of the agency from
22 stating that the agency's systems comply with this chapter. No
23 later than 30 days after the report is submitted, the agency shall
24 provide to the director a plan and schedule for correcting the
25 identified inadequacies and weaknesses, which shall be updated
26 every six months until all corrections are completed.

27 (d) The director, in consultation with the State Auditor and the
28 Controller, shall establish, and may modify from time to time as
29 necessary, a system of reporting and a general framework to guide
30 state agencies in conducting internal reviews of their systems of
31 internal accounting and administrative control. This framework
32 shall include *protocols for auditing and monitoring* of the agency's
33 assets, liabilities, revenues, and expenditures, as well as
34 reconciliation of accounting and budget documents reported to the
35 Department of Finance and the Office of the Controller.

36 (e) The director, in consultation with the State Auditor and the
37 Controller, shall establish, and may modify from time to time as
38 necessary, a general framework of recommended practices to guide
39 state agencies in conducting active, ongoing monitoring of
40 processes for internal accounting and administrative control.

1 SEC. 2. Section 13406 of the Government Code is amended
2 to read:

3 13406. (a) The head of the internal audit staff of a state agency,
4 a division, as specified by the director, or, in the event there is no
5 internal audit function, a professional accountant, if available on
6 the staff, designated as the internal control person by the head of
7 the state agency or a division, shall receive and investigate any
8 allegation that an employee of the agency provided false or
9 misleading information in connection with the review of the
10 agency's systems of internal accounting and administrative control
11 or in connection with the preparation of the biennial report on the
12 systems of internal accounting, administrative control, and
13 monitoring practices.

14 (b) If, in connection with any investigation under subdivision
15 (a), the head of the internal audit staff or the designated internal
16 control person determines that there is reasonable cause to believe
17 that false or misleading information was provided, he or she shall
18 report in writing that determination to the head of the agency or
19 the division, the Department of Finance, and the Joint Legislative
20 Audit Committee.

21 (c) The head of the agency or division shall review any matter
22 referred to him or her under subdivision (b), shall take such
23 disciplinary or corrective action as he or she deems necessary, and
24 shall forward a copy of the report, indicating therein the action
25 taken, to the director within 90 days of the date of the report.

26 SEC. 3. No reimbursement is required by this act pursuant to
27 Section 6 of Article XIII B of the California Constitution because
28 the only costs that may be incurred by a local agency or school
29 district will be incurred because this act creates a new crime or
30 infraction, eliminates a crime or infraction, or changes the penalty
31 for a crime or infraction, within the meaning of Section 17556 of
32 the Government Code, or changes the definition of a crime within
33 the meaning of Section 6 of Article XIII B of the California
34 Constitution.